

AMENDED IN ASSEMBLY JUNE 27, 2007

AMENDED IN SENATE APRIL 24, 2007

AMENDED IN SENATE APRIL 9, 2007

**SENATE BILL**

**No. 904**

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**Introduced by Senator Battin**

February 23, 2007

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An act to amend Section 27203 of, and to add Section 6107.5 to, the Government Code, and to amend Section 103526 of the Health and Safety Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 904, as amended, Battin. Public records: military service.

Existing law authorizes the State Registrar, local registrar, or county recorder to issue a certified copy of a military service record pursuant to the receipt of a written or faxed request for a certified copy of a military service record, as specified, that is accompanied by a notarized statement sworn under penalty of perjury, that the requester is an authorized person entitled to receive a certified copy of a military service record. In all other circumstances, the State Registrar, local registrar, or county recorder is authorized to issue an informational certified copy of a military service record, as provided. Existing law defines the term "authorized person," for purposes of that provision, to include the registrant or a parent or legal guardian of the registrant, a party entitled to receive the record as a result of a court order, a member of a law enforcement agency or a representative of another governmental agency, a family member of the registrant, as specified, an attorney representing the registrant or the registrant's estate, and any agent or employee of a funeral establishment, as specified.

This bill would, instead, ~~only~~ authorize a county recorder to issue a certified copy or ~~an informational-certified~~ *a noncertified* copy of a military service record. This bill would define an authorized person entitled to receive a certified copy of a military service record to ~~only~~ include the person who is the subject of the record, a family member or legal representative of the person who is the subject of the record, a county office that provides veterans' benefits services, and a United States official. By authorizing new persons to request a certified copy of a military service record, this bill would expand the crime of perjury and thereby impose a state-mandated local program.

Existing law provides that any county recorder who alters, changes, obliterates, or inserts any new matter in any records deposited in his or her office, will be liable to the party aggrieved, as provided.

This bill would require the county recorder, when furnishing ~~an informational-certified~~ *a noncertified* copy of a military service record, to alter that record by ~~striking out~~ *masking* the service member's personal information, as specified, without incurring any liability *for the alteration of that record. This bill would also require the county recorder to collect a fee, as specified, when issuing a noncertified copy of a military service record.* By changing the manner in which the county recorder issues ~~informational-certified~~ copies of military service records, this bill would impose a state-mandated local program. ~~This~~

*This bill would also make conforming changes to other provisions of law relating to public records.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 6107.5 is added to the Government Code,
- 2 to read:

6107.5. (a) If the county recorder receives a written or faxed request for a certified copy of a military service record, pursuant to Section 6107, that is accompanied by a notarized statement sworn under penalty of perjury, or a faxed copy of a notarized statement sworn under penalty of perjury, that the requester is an authorized person, the county recorder may furnish a certified copy to the applicant in accordance with Section 6107. A faxed request received pursuant to this section for a certified copy of a military service record shall be legible and, if the notary's seal is not photographically reproducible, show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment.

~~(b) In all other circumstances, the certified copy of a military service record provided to the requestor shall be an informational certified copy and shall display a legend that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY." Notwithstanding Section 27203 or any other law, the county recorder shall alter the informational certified copy to strike out the service member's address, date of birth, social security number, and service identification number, without incurring any liability.~~

*(b) (1) In all other circumstances, a noncertified copy of a military service record shall be provided to the requester, which shall display a legend that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY." Notwithstanding Section 27203 or any other law, the county recorder shall alter the noncertified copy to mask the service member's address, date of birth, social security number, and service identification number, without incurring any liability.*

*(2) The county recorder shall collect the fee prescribed by Section 27366 of the Government Code when issuing a noncertified copy of a military service record pursuant to this section.*

(c) For purposes of this section, an "authorized person" is any of the following:

- (1) The person who is the subject of the record.
- (2) A family member or legal representative of the person who is the subject of the record.

1 (3) A county office that provides veterans' benefits services.

2 (4) A United States official.

3 SEC. 2. Section 27203 of the Government Code is amended  
4 to read:

5 27203. Any recorder to whom an instrument proved or  
6 acknowledged according to law or any paper or notice which may  
7 by law be recorded is delivered for record is liable to the party  
8 aggrieved for the amount of the damages occasioned thereby, if  
9 he or she commits any of the following acts:

10 (a) (1) Neglects or refuses to record the instrument, paper, or  
11 notice within a reasonable time after receiving it. This subdivision  
12 shall not apply to an instrument, paper, or notice that the recorder  
13 has determined to be an unrecordable document pursuant to this  
14 chapter. Nothing in this subdivision shall preclude the application  
15 of Section 27201.

16 (2) The recorder may provide, to any person presenting a  
17 document the recorder determines to be an unrecordable document,  
18 a form stating that the person has the right to judicial review in a  
19 court of competent jurisdiction of the recorder's refusal to record  
20 the document. The form shall include a section stating the  
21 recorder's reason for refusing the document. The form shall provide  
22 notice that it is a public offense to further attempt to record the  
23 document without an order of the court as provided by Section  
24 27204. The recorder shall keep a correct copy of the refused  
25 document. In the event the document is determined by the court  
26 to be a recordable document, the recorder shall pay the filing fees  
27 for the review, and shall record the document within a reasonable  
28 time.

29 (b) Records any instrument, paper, or notice, willfully or  
30 negligently, untruly, or in any manner other than that prescribed  
31 by this chapter.

32 (c) Neglects or refuses to keep in his or her office or to make  
33 the proper entries in the indices required by this chapter.

34 (d) Except as provided by Section 6107.5, alters, changes,  
35 obliterates or inserts any new matter in any records deposited in  
36 his or her office. The recorder may make marginal notations on  
37 the records in his or her office indicating the affixing of internal  
38 revenue stamps to documents subsequent to recordation or the  
39 affixing of the stamps to original deeds on file in the office of the  
40 registrar of titles.

1 SEC. 3. Section 103526 of the Health and Safety Code is  
2 amended to read:

3 103526. (a) If the State Registrar, local registrar, or county  
4 recorder receives a written or faxed request for a certified copy of  
5 a birth or death record pursuant to Section 103525 that is  
6 accompanied by a notarized statement sworn under penalty of  
7 perjury, or a faxed copy of a notarized statement sworn under  
8 penalty of perjury, that the requester is an authorized person, as  
9 defined in this section, that official may furnish a certified copy  
10 to the applicant in accordance with Section 103525. A faxed notary  
11 acknowledgment accompanying a faxed request received pursuant  
12 to this subdivision for a certified copy of a birth or death record  
13 shall be legible and, if the notary's seal is not photographically  
14 reproducible, show the name of the notary, the county of the  
15 notary's principal place of business, the notary's telephone number,  
16 the notary's registration number, and the notary's commission  
17 expiration date typed or printed in a manner that is photographically  
18 reproducible below, or immediately adjacent to, the notary's  
19 signature in the acknowledgment. If a request for a certified copy  
20 of a birth or death record is made in person, the official shall take  
21 a statement sworn under penalty of perjury that the requester is  
22 signing his or her own legal name and is an authorized person, and  
23 that official may then furnish a certified copy to the applicant.

24 (b) In all other circumstances, the certified copy of a birth or  
25 death record provided to the requestor shall be an informational  
26 certified copy and shall display a legend that states  
27 "INFORMATIONAL, NOT A VALID DOCUMENT TO  
28 ESTABLISH IDENTITY." The legend shall be placed on the  
29 certificate in a manner that will not conceal information.

30 (c) For purposes of this section, an "authorized person" is any  
31 of the following:

32 (1) The registrant or a parent or legal guardian of the registrant.

33 (2) A party entitled to receive the record as a result of a court  
34 order, or an attorney or a licensed adoption agency seeking the  
35 birth record in order to comply with the requirements of Section  
36 3140 or 7603 of the Family Code.

37 (3) A member of a law enforcement agency or a representative  
38 of another governmental agency, as provided by law, who is  
39 conducting official business.

1 (4) A child, grandparent, grandchild, sibling, spouse, or domestic  
2 partner of the registrant.

3 (5) An attorney representing the registrant or the registrant's  
4 estate, or any person or agency empowered by statute or appointed  
5 by a court to act on behalf of the registrant or the registrant's estate.

6 (6) Any agent or employee of a funeral establishment who acts  
7 within the course and scope of his or her employment and who  
8 orders certified copies of a death certificate on behalf of any  
9 individual specified in paragraphs (1) to (5), inclusive, of  
10 subdivision (a) of Section 7100.

11 (d) Any person who asks the agent or employee of a funeral  
12 establishment to request a death certificate on his or her behalf  
13 warrants the truthfulness of his or her relationship to the decedent,  
14 and is personally liable for all damages occasioned by, or resulting  
15 from, a breach of that warranty.

16 (e) Notwithstanding any other provision of law:

17 (1) Any member of a law enforcement agency or a representative  
18 of a state or local government agency, as provided by law, who  
19 orders a copy of a record to which subdivision (a) applies in  
20 conducting official business may not be required to provide the  
21 notarized statement required by subdivision (a).

22 (2) An agent or employee of a funeral establishment who acts  
23 within the course and scope of his or her employment and who  
24 orders death certificates on behalf of individuals specified in  
25 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100  
26 shall not be required to provide the notarized statement required  
27 by subdivision (a).

28 (f) Informational certified copies of birth and death certificates  
29 issued pursuant to subdivision (b) shall only be printed from the  
30 single statewide database prepared by the State Registrar and shall  
31 be electronically redacted to remove any signatures for purposes  
32 of compliance with this section. Local registrars and county  
33 recorders shall not issue informational certified copies of birth and  
34 death certificates from any source other than the statewide database  
35 prepared by the State Registrar. This subdivision shall become  
36 operative on July 1, 2007, but only after the statewide database  
37 becomes operational and the full calendar year of the birth and  
38 death indices and images is entered into the statewide database  
39 and is available for the respective year of the birth or death  
40 certificate for which an informational copy is requested. The State

1 Registrar shall provide written notification to local registrars and  
2 county recorders as soon as a year becomes available for issuance  
3 from the statewide database.

4 ~~SEC. 2.~~

5 *SEC. 4.* No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution for certain  
7 costs that may be incurred by a local agency or school district  
8 because, in that regard, this act creates a new crime or infraction,  
9 eliminates a crime or infraction, or changes the penalty for a crime  
10 or infraction, within the meaning of Section 17556 of the  
11 Government Code, or changes the definition of a crime within the  
12 meaning of Section 6 of Article XIII B of the California  
13 Constitution.

14 However, if the Commission on State Mandates determines that  
15 this act contains other costs mandated by the state, reimbursement  
16 to local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.